



APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL JUSTICE

Victor D. Crist, Chair

Meeting Packet

Tuesday, April 13, 2004

9:15 a.m. – 11:15 a.m.

42 (LL) Senate Office Building

***(Please bring this packet to the committee meeting.
Duplicate materials will not be available.)***

E X P A N D E D A G E N D A

COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL JUSTICE

Senator Crist, CHAIR

DATE: Tuesday, April 13, 2004

TIME: 9:15 a.m. -- 11:15 a.m.

PLACE: Room 42 (LL), Senate Office Building

(MEMBERS: Senators Argenziano, Aronberg, Dawson and Fasano)

TAB	BILL NO. AND INTRODUCER	BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1684 Cowin et al (Similar H 0655)	DOC Employees/Additional Employment; provides that officer or employee of DOC is not prohibited from accepting other employment or secondary employment under certain conditions. Amends 944.38. CJ 03/10/04 FAVORABLE GO 03/24/04 FAVORABLE ACJ AP	
2	CS/SB 1696 Governmental Oversight and Productivity / Haridopolos et al (Similar H 0597, Compare S 1786)	Deputy James M. Weaver Act; provides additional death benefits for certain officers killed at scene of traffic accident or while enforcing traffic law or ordinance; provides limitation on certain actions involving discipline, demotion, or dismissal of law enforcement officer or correctional officer; provides for reopening of investigations & subsequent disciplinary action in certain circumstances; provides applicability, etc. Amends 112.19,.532. CJ 03/10/04 FAVORABLE WITH AMEND GO 03/24/04 CS ACJ AP	1
3	SB 2198 Saunders (Identical H 0059)	Homestead Exemption/Fraudulent Act; provides value-based sliding scale of criminal penalties for claiming homestead exemption if funds for homestead were unlawfully obtained through performance of fraudulent act. Amends 196.131. CJ 03/24/04 FAVORABLE FT 04/01/04 FAVORABLE ACJ AP	
4	Overview of the Department of Correction's Health Services Delivery System Presented by: Mr. Richard Prudom, Director of Financial Management		

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

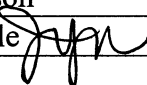
BILL: SB 1684

SPONSOR: Senator Cowin

SUBJECT: DOC Employees/Additional Employment

DATE: April 13, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	Wilson	Wilson	GO	Favorable
3.	Noble 	Sadberry R78	ACJ	
4.			AP	
5.				
6.				

I. Summary:

This bill amends s. 944.38, F.S., to provide that an officer or employee of the Department of Corrections can take additional employment or engage in any pursuit that does not interfere with discharge of his or her duties. The bill also allows a department officer or employee to work for a department contractor as long as he or she is not involved in procurement or evaluation for the contract.

This bill substantially amends section 944.38 of the Florida Statutes.

II. Present Situation:

Section 944.38(1), F.S., prohibits officers or employees of the Department of Corrections from having a direct or indirect interest in any contract or purchase made, or authorized to be made, for or on behalf of the department. It also prohibits department officers or employees from receiving any compensation for any act or service that he or she does for or on behalf of any officer or employee or agent, or employee of a contractor.

III. Effect of Proposed Changes:

This bill amends s. 944.38(1), F.S., to create a new paragraph (b) clarifying that the section does not prevent a Department of Corrections officer or employee from accepting other employment or following any pursuit that does not interfere with the performance of his or her duties to the department. It also provides that an officer or employee may accept employment with a department contractor if he or she: (1) has no responsibility or involvement with the department's award or management of the contract; and (2) has no responsibility or involvement with the process of making referrals to or evaluating the contract entity.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill would have a positive economic impact upon any corrections employee who takes secondary employment that would otherwise have been prohibited. It would have a negative impact upon any non-employee who loses a position or whose wages are reduced because of increased competition for jobs. It would also have a positive impact on a contractor if it is able to reduce wages because of the larger pool of potential employees.

C. Government Sector Impact:

It does not appear that the bill would have a direct fiscal impact upon the government sector. However, the availability of additional secondary employment options may help reduce employee turnover, leading to savings in the costs of recruiting and training officers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Correctional officers employed by the Department of Corrections are subject to the provisions of the collective bargaining agreements between the State of Florida, as the management representative, and the Security Services Unit of the Florida Police Benevolent Association, as the employee representative. This collective bargaining agreement does not preclude or authorize outside employment for remuneration of any kind.

The collective bargaining agreement in effect affecting law enforcement officers represented by the International Union of Police Associations does provide two separate statements on the subject of outside employment. Section 1 of Article 16 of the agreement governs non-police employment. An employee may engage in such employment subject to the employer's judgment as to the presence of a conflicting situation. Section 2 governs police-related employment and requires the state employer's prior approval before it may occur and the assurance that a conflicting circumstance is not present. The outside employer must make all arrangements for liability indemnification. Section 3 governs the use of state-provided vehicles and reimbursement for costs if the vehicle is used for outside employment.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1696

SPONSOR: Governmental Oversight and Productivity Committee and Senators Haridopolos and Posey

SUBJECT: Law Enforcement and Correctional Officers' Rights

DATE: April 13, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/1 amendment
2.	Wilson	Wilson	GO	Fav/CS
3.	Sadberry <i>RT</i>	Sadberry <i>RT</i>	ACJ	
4.			AP	
5.				
6.				

I. Summary:

Committee Substitute for Senate Bill 1696 (CS/SB 1696) places a restriction of 180 days for the completion of an internal investigation by an agency of a complaint against a law enforcement or correctional officer if it results in a disciplinary action. The bill also provides certain exceptions to the time limit. The bill also expands the payment of death benefits on behalf of a deceased public safety officer who is accidentally killed while enforcing a traffic accident scene or law or ordinance.

This bill substantially amends the following section of the Florida Statutes: ss. 112.19 and 112.532.

II. Present Situation:

Under the provisions of ss. 112.531 through 112.535, F.S., law enforcement officers and correctional officers are accorded certain rights when they are faced with an investigation by their own agency. This part of chapter 112, F.S., is commonly referred to as the "Law Enforcement Officers' Bill of Rights."

Section 112.532(1), F.S., sets forth the conditions under which an officer may be interrogated "whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason which could lead to disciplinary action, demotion, or dismissal."

Section 112.532(2), F.S., sets forth the requirements for composition of a Complaint Review Board.

Section 112.532(3), F.S., governs civil suits brought by officers under certain circumstances.

Section 112.532(4), F.S., provides for notification to the officer subject to dismissal, demotion, transfer, reassignment, or other personnel action which might be considered a punitive measure, prior to the effective date of the action. If the officer is subject to a disciplinary action consisting of suspension without pay, demotion, or dismissal, he or she must be provided with a complete investigative report and supporting documents, and be given an opportunity to address the findings before the imposition of the disciplinary action.

Section 112.532(5), F.S., prohibits retaliation or threat of retaliation against an officer who exercises his or her rights set forth in this “Bill of Rights.”

Section 112.19, F.S., provides for the payment of death benefits to designated public safety officers who are killed in the line of duty. The benefits, separate and apart from those payable from retirement, worker’s compensation and other employment based insurance, provide cash payment to the survivors of the officer and any children. In its present form the law conditions payment on the basis of accidental death related to the officers’ response. Incidental acts do not qualify if the underlying response was not an emergency event.

III. Effect of Proposed Changes:

The CS/SB 1696 amends s. 112.19, F.S., to provide for the employer payment of the additional sum of \$50,000 to the survivors of a designated public safety officer accidentally killed in the line of duty when the event to which the officer responded was enforcement of a traffic accident or other traffic law or ordinance. The amended provision is named the “Deputy James M. Weaver Act.”

The CS/SB 1696 also provides additional rights to law enforcement and correctional officers in s. 112.532, F.S., by creating a new subsection (6).

The new subsection provides that no disciplinary action, demotion, or dismissal shall be undertaken against an officer if the investigation of the allegation is not completed within 180 days of the receipt of the allegation by a person authorized by the officer’s agency to initiate an investigation of the allegation. Should the agency determine that disciplinary action is necessary, it must notify the officer of the proposed action within that 180 day period.

The exceptions to the general provisions set forth above are:

- the 180 days may be tolled for a period of time specified in a written waiver by the officer;
- the 180 days shall be tolled during the pendency of a criminal investigation or prosecution connected with the alleged misconduct;
- the 180 days shall be tolled during the time when the officer under investigation is incapacitated or otherwise unavailable;
- the time limitation may be extended for a period of time reasonably necessary to coordinate agencies involved in a multijurisdictional investigation.

Further, notwithstanding the 180 day time limitation for commencing a disciplinary action, an investigation may be *reopened* and any disciplinary action resulting therefrom must be completed within 90 days of the reopening of the investigation. The investigation may be reopened if:

- significant new evidence is found that is likely to affect the outcome; and
- the evidence could not have reasonably been discovered in the normal course of investigation, or the evidence resulted from the predisciplinary response of the officer.

The bill becomes affective on July 1, 2004, and applies to actions arising after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The employer of an officer affected by s. 1 of the bill is required to make a \$50,000 payment to the survivors if the qualifying event is the result of an accidental death resulting from enforcement of a traffic law or ordinance. Dependent children under the age of 25 are also eligible for free college, post-graduate or vocational-technical tuition and fees, not to exceed 120 credit hours. Under certain other circumstances the surviving spouse and dependent children are also eligible for free health insurance.

While it is not likely that the cumulative impact of this benefit extension would implicate the thresholds used for purposes of calculating an impact under s.18, Art. VII, State Constitution, there is some probability that only a few such cases in any one fiscal period could reach a \$1.6 million impact using the ten-cent per capita convention. This results from the supplemental cross references to additional benefits contained in s. 112.19, F.S., that are not readily apparent from the text of this bill. Most law enforcement officers in the State of Florida are employees of cities and counties and are the first responding officers to traffic enforcement.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The \$50,000 is payable by the public employer and may be in the form of cash, self-insurance or additional insurance coverage purchased on the employer's behalf. State agency employers must assume the cost of the benefit from existing funds otherwise appropriated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are two collective bargaining agreements involving state employees that are affected by the provisions of this bill. The first of these agreements has as parties the State of Florida as the employer and the International Union of Police Associations, as the employee representative. The officers represented are sworn, uniformed employees in state agencies other than the special agents in the Department of Law Enforcement and the Department of the Lottery. Article 7 of the labor agreement deals with internal affairs investigations and conforms to the provisions of s. 112.535, F.S. Internal investigations, not of a criminal nature, are to be completed within 45 days but may not exceed 120 days without the approval of the agency head. An investigation expected to last longer than 120 days must be accompanied by written notice to the affected officer.

Somewhat similar provisions are contained in the collective bargaining agreement between the State of Florida and the Security Services Unit of the Florida Police Benevolent Association on behalf of correctional officers. That agreement provides a customary investigative closure date of 60 days with an upper limit of 120 days. Written employee notification is required when the investigation is concluded.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2198

SPONSOR: Senator Saunders

SUBJECT: Homestead Exemption

DATE: April 13, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.	Fournier	Johansen	FT	Favorable
3.	Sadberry <i>R1d</i>	Sadberry <i>R1d</i>	ACJ	
4.			AP	
5.				
6.				

I. Summary:

Senate Bill 2198 creates felony criminal offenses where a person knowingly and willfully claims homestead exemption on a home which has been paid for, in whole or in part, with funds derived through a fraudulent act.

This bill substantially amends the following section of the Florida Statutes: 196.131, F.S.

II. Present Situation:

Homestead Exemption

Section 196.001, F.S., provides that, unless expressly exempted from taxation, all real property in the state shall be subject to taxation.

Section 6, Article VII of the Constitution of Florida provides for homestead exemptions from taxation within certain parameters. It states in part:

“Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, ... up to the assessed valuation of five thousand dollars, upon establishment of right thereto in the manner prescribed by law. ...Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. ...By general law and subject to conditions specified therein, the exemption shall be increased to a total of twenty-five thousand dollars of the assessed value of the real estate ...”

There are numerous special exemptions provided for in general law (*see* ss. 196.031 – 196.101, F.S.), but the general exemption is \$25,000 of the assessed value.

The taxpayer is required to furnish certain information to the local property appraiser in order to claim the homestead exemption. Section 196.131(2), F.S., provides that any person who knowingly and willfully gives false information for the purpose of claiming homestead exemption is guilty of a first degree misdemeanor and subject to up to one year incarceration and a \$5,000 fine.

Protection of Homestead Property from Creditors

Section 4, Article X of the Florida Constitution protects a homestead from forced sale under process of any court and allows liens on homesteads only for taxes and assessments and obligations contracted for the purchase or improvement of the homestead property. Sections 222.01 and 222.02, F.S., provide for the designation of homestead by a person residing in this state who wishes to avail himself or herself of the benefits of the constitutional protection of homestead property and laws exemption such property from forced sale. Section 222.30, F.S., provides protection for creditors against the fraudulent conversion of assets to make them immune or exempt from the claims of creditors.

Fraud

Fraudulent acts, in the more general criminal sense, are proscribed by ch. 817, F.S., which includes statutes addressing false pretenses and frauds, credit card crimes, and credit service organizations. Fraudulent acts may include other acts such as financial transactions done in a fraudulent manner, corporate fraud, or fraudulent securities transactions.

III. Effect of Proposed Changes:

Senate Bill 2198 creates felony criminal offenses where a person knowingly and willfully claims homestead exemption on a home which has been paid for, in whole or in part, with funds unlawfully obtained through the performance of a fraudulent act. The degree of felony and potential punishment is based on the assessed value of the homestead, as follows:

- a homestead with an assessed value of \$200,000 to \$499,999 – third degree felony.
- \$550,000 to \$1,499,999 – second degree felony.
- \$1.5 million or more – first degree felony.

The criminal offenses created by the bill are not ranked in the Criminal Punishment Code. If a person who has no previous criminal record and no other pending charges is convicted of one of the enumerated offenses he or she would be subject to the following penalties:

- third degree felony: from no state prison time up to 5 years in prison and a fine of up to \$5,000
- second degree felony: from no state prison time up to 15 years in prison and a fine of up to \$10,000
- first degree felony: from 21 months to 30 years in prison and a fine of up to \$10,000

The term “fraudulent acts” as used in the bill does not specify that the act must be punishable as a violation of the criminal code, therefore the provisions in the bill may take in acts that are fraudulent in a broad sense of the word.

The bill also makes a technical, grammatical change in s. 196.131(2), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has not been analyzed by the Criminal Justice Estimating Conference at the time of the writing of this Bill Analysis.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
